

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DARNELL CREDELL,

Plaintiff,

**7:16-cv-857
(GLS/TWD)**

v.

DET. MATT DAWLEY *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

DARNELL CREDELL
Plaintiff, *pro se*
15-B-3607
Orleans Correctional Facility
3531 Gaines Basin Road
Albion, New York 14411

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following an Order and Report-Recommendation by Magistrate Judge Thérèse Wiley Dancks, duly filed on September 16, 2016. (Dkt. No. 11.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Report-Recommendation for clear error, it is hereby

ORDERED that the Order and Report-Recommendation (Dkt. No. 11) is **ADOPTED** in its entirety; and it is further

ORDERED that plaintiff's Fourth Amendment illegal search and seizure claim be allowed to proceed against defendants Det. Matt Dawley, P.O. J. Giaquinto, and Sgt. Lawlee; and it is further

ORDERED that plaintiff is directed to file with the Clerk a summons addressed to each defendant for service of process within thirty (30) days from the date of this order; and it is further

ORDERED that a formal response to plaintiff's amended complaint be filed by defendants or their counsel as provided for in the Federal Rules of Civil Procedure subsequent to service of process on defendants; and it is further

ORDERED that plaintiff's Fourteenth Amendment due process claim against Defendant Det. Matt Dawley be **DISMISSED WITH PREJUDICE** and without leave to amend for failure to state a claim; and it is further

ORDERED that the clerk of the court serve a copy of this order upon the parties in accordance with this court's Local Rules.

IT IS SO ORDERED.

October 11, 2016
Albany, New York

Gary L. Sharpe
Gary L. Sharpe
U.S. District Judge